## UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

IN RE HELEN RACANELLI

: Chapter 13

Debtor. : Case No. 16-22617-rdd

:

HELEN RACANELLI : Adv. Pro. No. 16-08254-rdd

:

v.

Plaintiff,

BANK OF AMERICA, N.A., NATIONSTAR : MORTGAGE LLC, U.S. BANK NATIONAL : ASSOCIATION, AS TRUSTEE FOR GSAA : HOME EQUITY TRUST 06-00019, ASSET-BACKED CERTIFICATES, SERIES 06-00019, :

AND RECONTRUST

Defendants. :

## ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS BANK OF AMERICA. N.A. AND RECONTRUST COMPANY, N.A.'S MOTION TO DISMISS PLAINTIFF'S ADVERSARY COMPLAINT

Upon the motion, dated January 20, 2017 [Dkt. 12] and refiled on January 24, 2017 [Dkt. 13] (the "Motion") of defendants Bank of America, N.A. ("BANA") and Recontrust Company, N.A. (together with BANA, the "BANA Defendants"), for an order under Fed. R. Bankr. P. 7012 dismissing the November 29, 2016 ("Complaint") of plaintiff Helen Racanelli ("Plaintiff"); and it appearing that due and sufficient notice of the Motion and the hearing thereon was provided; and upon Plaintiff's objection to the Motion and all other pleadings filed in connection therewith; and upon the record of the July 11, 2017 hearing held by the Court on the Motion; and, after due deliberation and for the reasons stated by the Court in its bench ruling at the hearing, and good and sufficient cause appearing for the relief set forth herein, it is hereby ORDERED that:

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1. The Motion is granted, without prejudice to the extent set forth in paragraph 3

hereof, as to the BANA Defendants as to Counts One (civil conspiracy to commit fraud), Two

(RICO), Six (declaratory relief), and Seven (sanctions and damages).

2. The Motion is denied as to the BANA Defendants as to Count Three (waiver of

tender).

3. Plaintiff shall have until August 10, 2017 to file a motion under Fed. R. Bankr. P.

7015 for leave to file an amended complaint. Such motion shall attach the proposed amended

complaint, marked to show changes from the Complaint, as an exhibit thereto.

Dated: White Plains, New York

July 24, 2017

/s/ Robert D. Drain

United States Bankruptcy Judge